

UNITED STATES OF AMERICA,
Plaintiff, and the
COMMONWEALTH OF
PENNSYLVANIA,
Plaintiff-Intervener
v.
WEYERHAEUSER COMPANY,
Defendant.

WHEREAS, Plaintiff, the United States of America (hereinafter "Plaintiff" or "the United States"), on behalf of the United States Environmental Protection Agency (herein, "EPA"), has simultaneously filed a Complaint and lodged this Consent Decree against Defendant Weyerhaeuser Company ("Defendant") for alleged violations of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. §§ 7401 - 7671q, at its kraft pulp and paper mill located in Johnsonburg, Pennsylvania.

WHEREAS, the parties agree that settlement of this matter is in the public interest and that entry of this Consent Decree without further litigation is appropriate;

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that this Consent Decree has been negotiated by the parties in good faith and will avoid prolonged and complicated litigation among them; that this Consent Decree represents a settlement regarding the civil violations alleged in the United States' Complaint; and that this Consent Decree is fair, reasonable, and in the public interest;

WHEREAS, the Commonwealth of Pennsylvania ("Plaintiff-Intervener" or the "Commonwealth"), has filed a Complaint in Intervention alleging that the Defendant was in violation of the applicable Clean Air Act State Implementation Plan ("SIP");

WHEREAS, by entering into this Consent Decree Defendant does not admit liability for the violations alleged in the Complaints;

NOW, THEREFORE, before taking any testimony, upon the pleadings and without further adjudication of any issue of fact or law, it is hereby ORDERED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the parties to, and the subject matter of, this Consent Decree pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345, and 1355. Venue is proper in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. § 1391(b). The Complaints state claims upon which relief may be granted against Defendant under Section 113 of the Act, 42 U.S.C. § 7413.

II. APPLICABILITY

2. The provisions of this Consent Decree shall apply to and be binding upon Plaintiff, Plaintiff-Intervener, and Defendant, including Defendant's agents, successors and assigns.

3. No later than thirty (30) days prior to the sale or transfer of ownership or operation of the Facility or any portion thereof, Defendant shall give written notice of this Consent Decree to each purchaser or successor in interest. Upon such sale or transfer, Defendant shall provide a copy of this Consent Decree to each purchaser or successor in interest and shall condition any sale or transfer upon agreement by each transferee and/or successor in interest to perform the injunctive relief contained in Section V of this Consent Decree and submit to the jurisdiction of this Court. The sale or transfer of ownership or operation does not relieve Defendant of its obligations under this Consent Decree, unless Plaintiff consents in writing to that relief. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its agents, servants, contractors or employees to take actions necessary to comply with this Consent Decree.

III. DEFINITIONS

4. Unless otherwise explicitly defined herein, terms used in this Consent Decree shall have the meaning given to those terms in the CAA, 42 U.S.C. §§ 7401-7671q.
5. In addition, whenever terms listed below are used in this Consent Decree, the following definitions apply:
 - a. “Defendant” means Weyerhaeuser Company.
 - b. “Effective date” means the date that this Consent Decree is signed and entered as an order of the Court.
 - c. “PADEP” means the Pennsylvania Department of Environmental Protection and any successor agency or department.
 - d. “Party” means the Plaintiff, Defendant or Plaintiff-Intervenor in this

action.

- e. “United States” means United States of America and all of its departments, agencies, and instrumentalities.
- f. “U.S. EPA” means the United States Environmental Protection Agency and any successor agency or department.

IV. FACTUAL BACKGROUND

- 6. Defendant is incorporated in the State of Washington, and did business in the Commonwealth of Pennsylvania during the times relevant to the Complaint in this action.
- 7. Defendant is a “person” within the meaning of § 302(e) of the CAA, 42 U.S.C. § 7602(e).
- 8. Defendant owns and operates a kraft pulp and paper mill located in Johnsonburg, Pennsylvania (the “Facility”). Defendant acquired the Facility effective June 30, 2002 due to the merger of Defendant and Willamette Industries, Inc. (“Willamette”). Defendant is the surviving entity of that merger, and Willamette is Defendant’s predecessor in interest with respect to the Facility.
- 9. On or about April 19, 1999, U.S. EPA, Region III issued a Notice of Violation to Willamette. The NOV alleged, among other things, that Willamette failed to obtain a proper Prevention of Significant Deterioration (“PSD”) permit to construct and operate a major modification for sulfur dioxide and apply Best Available Control Technology (“BACT”) for sulfur dioxide (“SO₂”) emissions from Power Boilers (“PB”) 81 and 82 located at the Facility.
- 10. PB 81 and 82, identified as Source 040 and Source 041 in the Title V operating permit, are identical Babcock & Wilcox Company Sterling Power Boiler (“Type SPB”)

pulverized coal-fired boilers which use fuel oil and natural gas serving as backup fuels. Each unit is equipped with low-nitrogen oxide burners and a three-stage electrostatic precipitator. The units vent to a common stack, identified as S16/S17 (hereinafter "the stack"), in the Title V operating permit, which is 287 feet above grade and 9.4 feet inner diameter at the exit.

V. INJUNCTIVE RELIEF

11. Defendant shall timely obtain from PADEP all applicable permits to construct and operate one or more wet gas scrubbers ("Scrubbers") to control SO₂ emissions from PB 81 and 82. Defendant shall use all reasonable efforts to obtain in a timely manner all appropriate federally enforceable permits (or construction permit waivers) from PADEP for the construction of the Scrubbers required by this Consent Decree. PADEP issued a plan approval for construction and operation of the Scrubbers on June 3, 2003.
12. Defendant has issued a purchase order for the Scrubbers and associated equipment and instrumentation necessary to install, operate and monitor the Scrubbers.
13. Defendant commenced construction of the Scrubbers and associated equipment and instrumentation upon receipt of the plan approval from PADEP, and completed construction of the Scrubbers and associated equipment by October 19, 2003.
14. Defendant shall operate the installed Scrubbers in accordance with the following terms until such time as the Defendant obtains all applicable plan approval and operating permits for the Scrubbers that contain either the following terms, or more stringent terms, along with any other terms required by federal or state law:
 - a. The SO₂ emissions rate from PB 81 and 82 combined shall be limited to 0.20

pounds of SO₂ per million BTU of fuel combusted on a thirty (30) day rolling average.

- b. The combined annual SO₂ emissions from PB 81 and 82 shall be limited to four hundred thirty seven (437) tons per year on a twelve (12) month rolling average.
 - c. Defendant shall install, operate, calibrate and maintain a continuous emission monitor for SO₂, a continuous volumetric flow monitor and a continuous diluent gas monitor at the stack in accordance with 25 Pennsylvania Code (PA) Chapter 139 and 40 Code of Federal Regulations (CFR) Part 60.
 - d. Defendant shall monitor and record SO₂ emissions from the stack in pounds per million BTU on a 30-day rolling average basis and in tons per year on a 12- month rolling average basis.
 - e. Defendant shall monitor and record scrubbing liquid flow rate, liquid pH and pressure drop in the Scrubbers.
 - f. Defendant shall operate and maintain the Scrubbers and associated equipment and instrumentation in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.
 - g. Defendant shall perform a weekly operational inspection on the Scrubbers.
15. The plan approval application shall be for Scrubbers designed to achieve a 95% removal efficiency of the gaseous SO₂ emissions from PB 81 and 82 when burning coal with sulfur content equal to or greater than 2.5 percent.
16. Defendant shall not appeal any plan approval or permit condition established by this Consent Decree.

17. On November 5th, 6th and 8th of 2003, Defendant conducted initial performance testing on the Scrubbers and performance specification testing on the continuous emission monitor in accordance with 25 PA Code Chapter 139 and 40 CFR Part 60.
18. Plaintiffs have determined that the performance testing referred to in the preceding paragraph demonstrates that the Scrubbers as built can achieve the levels of emissions required by this Decree, the plan approval and New Source Performance Standard (NSPS) Subpart D (40 CFR §§ 60.40 - 60.46). The performance testing has established the pH, scrubber liquid flow rate and pressure drop operating parameter ranges that will be incorporated into the Defendant's Title V operating permit.
19. Defendant must comply with all dates in this Section unless excused under Section XV (Force Majeure).
20. Defendant may not use any credits resulting from the emissions reductions required by the Injunctive Relief in this Consent Decree in any emissions banking, trading, or netting program for PSD, major non-attainment New Source Review ("NSR"), or minor NSR.
21. Defendant shall provide all required notices, perform all required performance tests and emission monitoring and meet all applicable emission standards and other requirements to operate PB 81 and PB 82 in compliance with New Source Performance Standard (NSPS) Subparts A (40 CFR §§ 60.1 - 60.19) and D (40 CFR §§ 60.40 - 60.46) in effect as of the date of this Consent Decree, and as subsequently amended, and shall consider PB 81 and PB 82 to be an "affected facility" in all respects for purposes of NSPS Subparts A and D. In the event that PB 81 and/or PB 82 come under the provisions of 40 CFR §60.40b(j) (Subpart Db), Defendant shall consider PB 81 and/or PB 82 to be an

- "affected facility" in all respects for purposes of NSPS Subpart Db rather than Subpart D.
22. Notwithstanding any other provision of this Consent Decree, PB 81 and/or PB 82 shall continue to be an "affected facility" in all respects for purposes of NSPS Subparts A (40 CFR §§ 60.1 - 60.19) and D (40 CFR §§ 60.40 - 60.46) or NSPS Subparts A (40 CFR §§ 60.1 - 60.19) and Db (40 CFR §§ 60.40b - 60.49b) for as long as either PB 81 or PB 82 continues to operate and such provisions remain in effect.

VI. CIVIL PENALTY

23. Defendant shall pay a civil penalty of Nine Hundred Thousand Dollars (\$900,000) (the "Civil Penalty") in settlement of the civil claims alleged by the Plaintiff in its Complaint, through and including the date of lodging of this Decree. Of the total, Six Hundred Seventy Five Thousand Dollars (\$675,000) shall be paid to the United States and Two Hundred Twenty Five Thousand (\$225,000) to Plaintiff-Intervener.
24. Within thirty (30) calendar days after the entry of this Consent Decree, Defendant shall submit payment of the share of the Civil Penalty due to the United States as required by Paragraphs 25 and 26, and to the Commonwealth as required by Paragraph 28 of this Consent Decree.
25. Payment of the share of the Civil Penalty due to the United States shall be made by electronic funds transfer ("EFT") to the United States Attorney's Office lockbox bank, and referencing the U.S. Attorney's Office File Number, which will be provided upon lodging of this decree. Payment shall be made in accordance with instructions provided to the Defendants by the Financial Litigation Unit, United States Attorney's Office for the Western District of Pennsylvania, upon lodging of this Consent Decree. Any EFT

received at the United States Department of Justice lockbox bank after 7:30 p.m. (Eastern Time) will be credited the following business day. A copy of the transmittal shall be sent to: Docket Clerk (3RC00), Region III, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, and to Chief, Environmental Enforcement Section, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, Attention: DOJ No. 90-5-2-1-2186/1.

26. If Defendant fails to make timely payment of the Civil Penalty, it shall be liable for interest and penalties for late payment as follows: (a) interest on any delinquent penalty amount at the percentage rate established by the Department of Treasury pursuant to 28 U.S.C. § 1961 (as of the due date), for any period after the due date; (b) a penalty charge assessed monthly on any portion of the penalty, including interest, which is more than ninety (90) days delinquent at a rate of six percent per annum; and (c) administrative costs of collecting the penalty calculated in accordance with 40 CFR § 13.11(b) and assessed monthly throughout the period the penalty is overdue.
27. Defendant shall not deduct the civil penalty paid pursuant to paragraph 23 of this Consent Decree in calculating its federal income tax.
28. Payment of the share of the Civil Penalty due to the Commonwealth of Pennsylvania shall be made by check payable to the "Commonwealth of Pennsylvania Clean Air Fund," sent to the Regional Program Manager, Air Quality Program, Commonwealth of Pennsylvania, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335.

VII. STIPULATED PENALTIES

29. Defendant shall be liable for Stipulated Penalties to the Plaintiff for violations of this Consent Decree as specified below, unless excused under Section XV (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.
30. The following Stipulated Penalties shall accrue per violation per day for non-compliance with this Consent Decree:
- a. Paragraph 14 - during the time beginning the first day after completion of the initial performance test referred to in Paragraph 17, until the effective date of all applicable operating permits required by this Consent Decree, \$1000 per day for each exceedance of an operating limit specified in subparagraphs 14(a) and (b), or other any conditions listed in paragraph 14, up to thirty (30) consecutive days per violation, \$1500 per day for each of the next fifteen (15) days and \$2500 per day for each succeeding day.
 - b. Paragraph 24 - \$1,000 per day for each of the first thirty (30) days following the 30th day after the entry of this Consent Decree for failure to pay the civil penalty in full by that date, \$1,500 per day for each of the next fifteen (15) days and \$2,000 per day for each succeeding day.
31. Stipulated Penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases.

Stipulated Penalties shall accrue simultaneously for separate violations of this Consent Decree. Defendant shall pay any Stipulated Penalty within 30 days of receiving the United States' written demand.

32. The United States may, in the unreviewable exercise of its discretion, reduce or waive Stipulated Penalties otherwise due it under this Consent Decree.
33. Stipulated Penalties shall continue to accrue as provided in Paragraph 31, above, during any Dispute Resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:
 - a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 days of the effective date of the agreement or the receipt of EPA's decision or order;
 - b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 days of receiving the Court's decision or order, except as provided in Subparagraph c, below;
 - c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 days of receiving the final appellate court decision.
34. Defendant shall pay Stipulated Penalties for any noncompliance occurring between the

date of lodging and the Effective Date of this Consent Decree within 30 days of the Effective Date of this Decree.

35. Defendant shall, as directed by the United States, pay that share of the Stipulated Penalties owing to the United States by EFT in accordance with Paragraph 25 above or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ No. 90-5-2-1-2186/1 and United States Attorney's Office file number that will be supplied upon lodging of this decree, and delivered to the office of the United States Attorney, Western District of Pennsylvania, according to the instruction provided pursuant to paragraph 25 of this decree.
36. Defendant shall not deduct Stipulated Penalties paid under this Section in calculating its federal income tax.
37. Subject to the provisions of Section X of this Consent Decree (Reservation of Rights), the Stipulated Penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the Plaintiff or Plaintiff-Intervener for Defendant's violation of this Consent Decree or applicable law.

VIII. COSTS

38. The parties to this Consent Decree shall bear their own costs of litigation in this civil action, including but not limited to, attorney and expert witness fees.
39. This Consent Decree shall be considered an enforceable judgment for purposes of post-judgment collection in accordance with Federal Rule of Civil Procedure 69 and the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001-3308. If Defendant fails to pay an amount that is owing to the United States pursuant to the requirements of this

Consent Decree in accordance with the time periods set forth herein, Defendant shall be liable and shall pay for attorneys' fees and costs incurred by the Plaintiff to collect any such amount.

IX. COMPLIANCE WITH APPLICABLE LAWS

40. This Consent Decree in no way relieves Defendant of its responsibility to comply with any applicable federal, state or local laws, regulations, and permits. Except as to a claim of contempt of court and except for the civil claims settled by Section XIX (Effect of Settlement), the parties agree that compliance with this Consent Decree shall not be a defense to any actions commenced pursuant to any federal, state or local, laws, regulations or permits.

X. RESERVATION OF RIGHTS

41. Notwithstanding any other provision of this Consent Decree, no action or decision by EPA pursuant to this Consent Decree, except an action by EPA to compel compliance with this Decree, shall constitute final agency action giving rise to any right to review.
42. Except as otherwise provided in this Consent Decree, the provisions of this Consent Decree shall not be construed to limit any other remedies, including, but not limited to, institution of proceedings for civil or criminal contempt or injunctive relief, otherwise available to Plaintiff for violations of this Consent Decree or any provisions of applicable law. This Consent Decree shall not be construed to prevent or limit the application of the provisions of the any state or federal statute, or any regulation promulgated thereunder.
43. Except as otherwise provided in this Consent Decree, the parties reserve all of their civil and criminal rights, claims, and defenses available at law or equity.

44. This Consent Decree is neither a permit nor a modification of any existing permit and shall not be construed as such.

XI. NOTICE AND PUBLIC COMMENT

45. Notice of this Consent Decree shall be published in the Federal Register by Plaintiff in accordance with 28 CFR § 50.7, and public comment will be duly considered by Plaintiff before entry of this Consent Decree. Plaintiff may modify or withdraw consent to this Consent Decree prior to entry by the Court if it determines that this Consent Decree is inappropriate, improper or inadequate.

XII. AUTHORITY

46. The parties to this Consent Decree represent to this Court that one or more of their respective undersigned counsel and other signatories have full authority to approve the provisions of this Consent Decree, to execute this Consent Decree, and to legally bind the parties to this Consent Decree.
47. This Consent Decree may be signed in counterparts, and such counterpart signature pages shall be given full force and effect.
48. Defendant agrees not to oppose entry of this Consent Decree by the Court or to challenge any provision of this Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.
49. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XIII. RETENTION OF JURISDICTION

50. For the purpose of modifying, construing and enforcing the rights and obligations of the parties to this Consent Decree, this Court shall retain jurisdiction from the date of entry of this Consent Decree through the date of its termination.

XIV. MODIFICATION

51. Any modifications of this Consent Decree must be in writing and approved by the Court. Any agreed upon written modification must be signed by the parties to this Consent Decree. No party may petition the Court for modification without having first made a good faith effort to reach agreement with the other party on the terms of such modification.

XV. FORCE MAJEURE

52. A “force majeure event” is any event beyond the control of Defendant, its contractors, or any entity controlled by Defendant that delays the performance of any obligation under this Consent Decree despite Defendant’s best efforts to fulfill the obligation. “Best efforts” includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. “Force Majeure” does not include Defendant’s financial inability to perform any obligation under this Consent Decree. Provided that Defendant gives timely notice, “Force Majeure” does include, but is not limited to, delays attributable to (a) state and/or local permitting requirements and processes and (b) test plan review and approval, if those delays meet the criteria of a “force majeure event,” as defined in this paragraph.

53. Defendant shall provide notice orally or by electronic or facsimile transmission as soon as possible, but not later than 72 hours after the time Defendant first knew of, or by the exercise of due diligence, should have known of, a claimed force majeure event.
- Defendant shall also provide written notice, as provided in Section XVII of this Consent Decree (Submission of Documents), within seven days of the time Defendant first knew of, or by the exercise of due diligence, should have known of, the event. The notice shall state the anticipated duration of any delay; its cause(s); Defendant's past and proposed actions to prevent or minimize any delay; a schedule for carrying out those actions; and Defendant's rationale for attributing any delay to a force majeure event. Failure to give such notice shall preclude Defendant from asserting any claim of force majeure for that event.
54. If the United States agrees that a force majeure event has occurred, the United States may agree to extend the time for Defendant to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other obligation. Where the United States agrees to an extension of time, the appropriate modification shall be made pursuant to Section XIV of this Consent Decree (Modification).
55. If the United States does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by Defendant, the United States' position shall be binding, unless Defendant invokes Dispute Resolution under Section XVI of this Consent Decree. In any such dispute, Defendant bears the burden of proving, by a preponderance

of the evidence, that each claimed force majeure event is a force majeure event; that Defendant gave the notice required by Paragraph 53; that the force majeure event caused any delay Defendant claims was attributable to that event; and that Defendant exercised best efforts to prevent or minimize any delay caused by the event.

XVI. DISPUTE RESOLUTION

56. Unless otherwise expressly provided for in this Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of Defendant that have not been disputed in accordance with this Section.
57. Any dispute which arises under or with respect to the implementation of this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed twenty (20) calendar days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party receives from the other party a written Notice of Dispute.
 - a. If the parties cannot resolve their dispute within twenty (20) calendar days of the date the dispute arises, Plaintiff's position shall control, unless Defendant files a petition with this Court for resolution of the dispute within fifteen (15) days of receipt in writing of a document from Plaintiff containing Plaintiff's final action or decision, or within thirty (30) days of the date the dispute arises, whichever is earlier.

- b. The petition shall set out the nature of the dispute and the relief requested and shall specifically refer to this paragraph of this Consent Decree. Plaintiff shall have thirty (30) days to file a response to Defendant's petition. Defendant shall bear the burden of proof in any dispute resolution proceeding under this Consent Decree. Unless the parties stipulate otherwise, or good cause is demonstrated to the Court, any dispute resolution proceeding shall be decided on the record submitted to the Court, and without live witness testimony or an opportunity for discovery.
- c. The Court shall uphold Plaintiff's action or decision unless Defendant proves that Plaintiff's action or decision was arbitrary and capricious, an abuse of discretion, and was not otherwise in accordance with applicable law.

58. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of Defendant under this Consent Decree, unless EPA agrees in writing or the Court so orders. EPA shall not unreasonably withhold its consent to Defendant's request for extension or postponement pending invocation of formal dispute resolution. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that Defendant does not prevail on the disputed issue, stipulated penalties shall be

assessed and paid as provided in Section VII (Stipulated Penalties).

XVII. SUBMISSION OF DOCUMENTS

59. Unless and until notice to the contrary is provided to Defendant, all notifications, reports, and information required by this Consent Decree to be submitted, as to Plaintiff, shall be submitted to:

Mr. Chris Pilla, Chief
U.S. Environmental Protection Agency
Region III - Air Protection Division
Air Enforcement Branch
Mail Code - 3AP12
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

with copies submitted simultaneously to:

Neil R. Bigioni, Esq.
Senior Assistant Regional Counsel
Mail Code - 3RC10
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044

As to the Defendant:

Vice President/Mill Manager
Weyerhaeuser Company
100 Center Street
Johnsonburg, PA 15845
Fax Number: (814) 965-6383

and

Vice President and General Counsel
Weyerhaeuser Company
MS: CH5J
P.O. Box 9777
Federal Way, WA 98063-9777
Fax Number (253) 924-3253

As to PADEP:

Regional Program Manager
Air Quality Program
Commonwealth of Pennsylvania
Department of Environmental Protection
230 Chestnut Street, Meadville, PA 16335

60. Any document submitted by Defendant to EPA that makes a factual representation relating to the Defendant's compliance with any requirement of this Consent Decree must be certified. The certification shall be signed by either the Plant Manager for the Facility or the Manager or Director to whom the Plant Manager reports, and shall provide:

I certify under penalty of law that the information contained in or accompanying this submission is true, accurate and complete. With respect to any portion of this document or its attachments for which I cannot personally verify truth and accuracy, I certify that those portions were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information being submitted. As the company official having supervisory responsibility for the person(s) who, acting under my direct supervision gathered, evaluated and verified to me the truth

and accuracy of the information being submitted, I certify that to my knowledge that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

XVIII. ENTIRE AGREEMENT

61. This Consent Decree represents the entire agreement between the parties. Prior drafts of this Consent Decree shall not be used in any action involving the interpretation or enforcement of this Consent Decree.

XIX. EFFECT OF SETTLEMENT

62. Satisfaction of all of the requirements of this Consent Decree constitutes full settlement of, and shall resolve all civil liability of Defendant to the Plaintiffs for the claims alleged in their Complaints.

XX. TERMINATION

63. To terminate this Consent Decree, Defendant shall submit to the United States a written request to terminate supported by an affidavit signed by a responsible corporate official certifying that the Defendant has completed and complied with all requirements of this Consent Decree, including, but not limited to, the payment of all unpaid civil and stipulated penalties, and fulfillment of the requirements of Section V (Injunctive Relief). Within sixty (60) days after receiving the affidavit, the United States shall (1) submit the affidavit to the Court, with a notice that the United States does not object to the

termination of the Consent Decree; or (2) notify Defendant that EPA does not agree that Defendant has completed and complied with all requirements of this Consent Decree. In the latter event, the parties shall attempt to resolve the disagreement pursuant to the terms of Section XVI (Dispute Resolution).

64. Notwithstanding the preceding paragraph, the provisions of Paragraphs 21 and 22, as to either PB 81 or PB 82, may terminate, if and only if, PB 81 or PB 82 is permanently shut down and permanently physically changed such that it is not capable of further service as an affected facility.

ENTERED this ____ day of _____, 2004.

UNITED STATES DISTRICT COURT JUDGE

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter captioned
United States of America v. Weyerhaeuser Company, Civil Action No. _____:

FOR PLAINTIFF UNITED STATES OF AMERICA

Date: 6.15.04

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division

Date: _____

ELLIOT M. ROCKLER
Trial Attorney
Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

Date: _____

THOMAS V. SKINNER
Acting Assistant Administrator
Office of Enforcement & Compliance Assurance
U.S. Environmental Protection Agency

Date: MAY 14 2004

DONALD S. WELSH
Regional Administrator
U.S. Environmental Protection Agency
Region III

Date: 5/12/04

WILLIAM C. EARLY
Regional Counsel
U.S. Environmental Protection Agency
Region III

Date: 5/10/04

NEIL R. BIGIONI
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III

Date: _____

By:

HARRY LITMAN

Assistant United States Attorney
Western District of Pennsylvania

FOR DEFENDANT WEYERHAEUSER COMPANY:

NAME:

Walter D. Gryn

Date:

5/5 2004

Title:

Senior Vice President

FOR PLAINTIFF-INTERVENOR
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: 5/12/04

JAMES D. ROZAKIS
Assistant Regional Director
PADEP Northwest Region

Date: 5/12/04

THADDEUS A. WEBER
Assistant Counsel
PADEP Northwest Region